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for the Substantively Consolidated SIPA
Liquidation of Bernard L. Madoff Investment
Securities LLC and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

CHARLES ELLERIN IRREVOCABLE GIFT
GIVING TRUST;

ROBERT M. GRIFFITH, in his capacity as
TRUSTEE of the CHARLES ELLERIN

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-05219 (SMB)

IRREVOCABLE GIFT GIVING TRUST; and

JANET WINTERS, INDIVIDUALLY as
BENEFICIARY of the CHARLES ELLERIN
IRREVOCABLE GIFT GIVING TRUST,

Defendants.

NOTICE OF MEDIATION REFERRAL

On November 10, 2010, this Court entered the Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order (the “Order”)¹ [Adv. Pro. No. 08-01789 (SMB), Dkt. No. 3141]. Pursuant to the Notice of Applicability filed by Plaintiff Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), in this Adversary Proceeding on December 3, 2010 [Dkt. No. 2], the Order and the avoidance procedures contained therein (the “Avoidance Procedures”) are applicable to the instant matter.

On April 17, 2014, the Charles Ellerin Irrevocable Gift Giving Trust and Robert M. Griffith, as trustee of the Charles Ellerin Irrevocable Gift Giving Trust, (“Defendants”) filed a motion to dismiss this adversary proceeding [Dkt. No. 46] pursuant to Federal Rule of Civil Procedure 12(b)(6), made applicable by Bankruptcy Rule 7012 (a “Rule 12(b)(6) Motion”).

¹ All terms not defined herein shall be given the meaning ascribed to them in the Order.

Pursuant to the Avoidance Procedures, upon the filing of a Rule 12(b)(6) Motion, the issues raised in such motion, together with the issues raised in the Complaint, are immediately referred to mediation. Avoidance Procedures, ¶2D.

Pursuant to the Avoidance Procedures, within 14 calendar days after the filing of this Notice of Mediation Referral, the Trustee and Defendants (the “Parties”) shall choose a mediator in accordance with the Mediation Order. If the Parties are unable to agree on a mediator, the Court shall appoint one in accordance with the Mediation Order. Avoidance Procedures, ¶5C.

Dated: New York, New York
May 14, 2014

Of Counsel:

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